plied it. *Niehaus* v. *Shepherd*, 26 Oh. St. 40; *Foster* v. *Wright*, *supra*. But if in the principal case the shifting of the inlet was perceptible moment by moment, the decision is correct. *Mulry* v. *Norton*, 100 N. Y. 424. See BRACTON, 2. 2. 1.

BANKRUPTCY — JURISDICTION OF FEDERAL COURTS — SUMMARY PROCEDURE. — Just before the filing of a petition in bankruptcy the treasurer of the bankrupt corporation took money of the corporation and left the jurisdiction of the bankruptcy court. He returned a year later. The referee found that he had a part of the money still in his possession, though he denied this. *Held*, that the bankruptcy court may make a summary order that he turn over this money to the trustee. *In re Meier*, 27 Am. B. Rep. 272 (C. C. A., Eighth Circ.).

The Bankruptcy Act allows summary procedure to compel a bankrupt to turn over to his trustee property in his possession. BANKRUPTCY ACT OF 1898, § 2 (7), (13). It was a slight extension to allow such procedure against an agent of the bankrupt. *Mueller* v. *Nugent*, 184 U. S. 1. See *In re Wells*, 114 Fed. 222. But the federal cases, following the *dictum* of the Supreme Court in the case cited, have gone to this extent: In the case of any fraudulent conveyance or preference the trustee may petition for a summary order against the party benefited. The petition should allege that the defendant has but a colorable claim. *In re Scherber*, 131 Fed. 121; *In re Michie*, 116 Fed. 749. If the referee finds that the defendant has the property in his possession and has no substantial claim to it, he may order it to be handed over. *In re Kane*, 131 Fed. 386. *Cf. In re Laplane Condensed Milk Co.*, 145 Fed. 1013. The present case is within this rule. But if the defendant sets up a claim of title to the property and supports it by some evidence, there can be no summary order, even though the referee is convinced that the claim is fraudulent. *Jaquith* v. *Rowley*, 188 U. S. 620; *Cooney* v. *Collins*, 176 Fed. 189. But see *In re Knickerbocker*, 121 Fed. 1004, 1006. The rule even so limited is without statutory foundation, and must be regarded as judicial legislation.

BANKRUPTCY — PARTNERSHIP AND INDIVIDUAL CLAIMS AND ASSETS — ENTITY THEORY. — A partnership and the partners were in bankruptcy. The partnership estate proved against the individual estate of a partner on a note. *Held*, that no dividend can be paid on this claim till all the individual creditors of that partner have been paid. *In re Telfer*, 184 Fed. 224 (C. C. A., Sixth Circ.).

A partnership and the partners were in bankruptcy. The estate of a partner proved against the partnership estate for money lent. *Held*, that no dividend can be paid on this claim till all the creditors of the partnership have been paid. *In re Effinger*, 184 Fed. 728 (Dist. Ct., D. Ind.).

These cases are in accord with previous authority in their construction of the provisions of the Bankruptcy Act regarding the administration of the estates of bankrupt partnerships. *In re Rice*, 164 Fed. 509. See *In re Denning*, 114 Fed. 219, 221; *In re Henderson*, 142 Fed. 588, 590. They decide that § 5 *f*, stating the old rule, giving partnership assets to partnership creditors, individual assets to individual creditors, and any surplus from either estate to the creditors of the other, governs the distribution, and that § 5 *g* allowing the partnership and individual estates to prove against each other, merely explains a method for distributing the surplus. The result is thus the same as that reached under the Act of 1867, which had no section corresponding to § 5 *g* of the present act. See *Amswick* v. *Bean*, 22 Wall. (U. S.) 395, 402. The Act of 1898 adopts in a general way the entity theory of partnership. BANKRUPTCY ACT OF 1898, §§ 1 (19), 5 *a*. See *In re Bertenshaw*, 157 Fed. 363, 365. The federal courts might have carried out the theory more logically by giving § 5 *g* the effect of making the individual and partnership estates creditors of each other,